

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
(Northern Division)**

MAYOR AND CITY COUNCIL OF)
BALTIMORE CITY, A MUNICIPAL)
CORPORATION, <i>et al.</i>,)
)
<i>Plaintiffs, Counter-</i>)
<i>Claim Defendants,</i>)
v.)
)
BROOKE ALLEN, <i>et al.</i>,)
)
<i>Defendants, Counter-</i>)
<i>Claim Plaintiffs.</i>)
)

Civil Action No. 16-03486 -ELH

**MOTION OF PLAINTIFFS, COUNTERCLAIM DEFENDANTS
TO DISMISS DEFENDANTS' COUNTERCLAIMS**

Plaintiffs, counterclaim defendants, Mayor And City Council Of Baltimore City, Baltimore Festival Of The Arts, Inc., and Baltimore Office Of Promotion & The Arts, Inc., by their undersigned counsel, move pursuant to FED. RULE CIV. PRO. 12(b)(6) to dismiss the counterclaims of defendants, counterclaim plaintiffs Brooke Allen, Justin Allen, and What Works Studio, LLC in their Answer, Defenses, And Counterclaim [*sic*] for failure to state claims upon which relief can be granted.

Each of defendants' counterclaims depends upon proof that defendants own the trademarks and service marks associated with the Light City festival. Defendants' counterclaims have failed to plead plausible claims that they were the first to use those marks in commerce, and so failed to plead any factual basis for finding that defendants own any of the trademarks or service marks at issue in this case. For this reason, the Court should dismiss all of defendants' counterclaims.

In addition, defendants' counterclaims IV, V, and VI, apart from their failure to plead facts sufficient to establish that defendants' own the marks at issue, also fail to plead sufficient factual matter to make those claims plausible. The Court should dismiss those counterclaims for these additional reasons.

The points and authorities in support of this Motion are set forth with more particularity in the accompanying Memorandum Of Points And Authorities In Support Of The Motion Of Plaintiffs, Counterclaim Defendants To Dismiss Defendants' Counterclaims, filed simultaneously with this Motion.

WHEREFORE Plaintiffs Mayor and City Council of Baltimore City, Baltimore Festival of the Arts, Inc., and Baltimore Office of Promotion & the Arts, Inc. respectfully request that this Court grant the Motion Of Plaintiffs, Counterclaim Defendants To Dismiss Defendants' Counterclaims.

Date: December 5, 2016

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 5th day of December, 2016, a copy of foregoing was served by the Court's ECF filing system on:

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